



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8
999 18TH STREET - SUITE 300
DENVER, CO 80202-2466
Phone 800-227-8917
<http://www.epa.gov/region08>
August 11, 2006

Ref: 8ENF-W

CERTIFIED MAIL LETTER
RETURN RECEIPT REQUESTED

Horse Creek Properties, Owner
c/o Mr. Michael Reisbeck, President
P.O. Box 746
Jackson, WY 83001

Mr. Bruce Johnston, Operator
Horse Creek Station
P.O. Box 746
Jackson, WY 83001

Re: Administrative Order
Docket No. **SDWA-08-2006-0052**
PWS ID #WY5600888

Dear Messrs. Michael Reisbeck and Bruce Johnston:

Enclosed you will find an Administrative Order (Order), which the Environmental Protection Agency (EPA) has issued under the authority of the Safe Drinking Water Act (SDWA), 42 U.S.C. Section 300f et seq., and its implementing regulations. Among other things, the Administrative Order finds that the Horse Creek Station Public Water System (System), is a supplier of water as defined by the SDWA and that the owner and/or operator of the System have violated the National Primary Drinking Water Regulations (NPDWRs) at 40 C.F.R. §§ 141.63(b), 141.63(a)(2), 141.21(b)(5), 141.21(a), 141.201, 141.21(g)(1), 141.21(g)(2), and 141.31(b) for exceeding the acute maximum contaminant level (MCL) for total coliform bacteria; exceeding the MCL for total coliform bacteria; failure to collect at least five routine total coliform samples after a total coliform positive sample in the preceding month; failure to monitor quarterly for total coliform; failure to conduct public notice; failure to report total coliform MCL violations to EPA; failure to report total coliform monitoring violations to EPA; and failure to report National Primary Drinking Water violations to EPA.

If the System owner and/or operator comply with the terms of the Order for a period of at least twelve months, EPA may choose to close the Order. Violating the enclosed Order may lead



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to (1) a penalty of up to \$32,500 per day of violation of the Order, (2) a separate such penalty for violating the regulations themselves, and/or (3) a court injunction ordering compliance.

Also enclosed is a Small Business Regulatory Enforcement and Fairness Act (SBREFA) Section 22 information sheet. The SBREFA sheet notifies small businesses of their right to comment on regulatory enforcement activities, and provides information on compliance assistance. Dissemination of this information sheet does not constitute an admission or determination by EPA that any business, organization or governmental jurisdiction is a small entity as defined by SBREFA.

Please note that the effective date of the enclosed Order is the date of issuance. Within the next 10 days, please provide EPA with any new information that you believe the Agency is not aware of relating to the alleged violations in the Order. The information may be sent to Melanie Wasco at the address on the letterhead, including the mailcode 8ENF-W, or you may call Ms. Wasco at (800) 227-8917, extension 6540, or (303) 312-6540. If you wish to have an informal conference with EPA, you may also call or write Ms. Wasco. If you are represented by an attorney, please feel free to ask your attorney to call Michelle Marcu at the above 800 number, extension 6921, or at (303) 312-6921.

We urge your prompt attention to this matter.

Sincerely,

SIGNED

Diane L. Sipe, Director
Technical Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice

Enclosure
Order
SBREFA

cc: (via email)
Wyoming DEQ
Wyoming DOH



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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION VIII

999 18th STREET - SUITE 500

DENVER, COLORADO 80202-2466

August 11, 2006

Ref: 8ENF-W

CERTIFIED MAIL LETTER
RETURN RECEIPT REQUESTED

Teton County Commissioners
c/o Larry Jorgenson, Chair
P.O. Box 3594
Jackson, WY 83001

Re: Notice of Safe Drinking Water Act
Enforcement Action against
Horse Creek Station
PWS ID# WY5600888

Dear County Commissioners:

Under the Safe Drinking Water Act (SDWA), the Environmental Protection Agency (EPA) administers a program for promoting the safety of public water supplies. In Wyoming, the EPA enforces this program directly, because Wyoming does not have primary authority for doing so. When EPA issues an administrative compliance order to a public water supply system in a state that does not have primary enforcement authority under the SDWA, EPA is required to notify an appropriate locally elected official. Accordingly, the purpose of this letter is to notify you that EPA is issuing an administrative compliance order to a public water supply system in your county.

An Administrative Order is being issued under Section 1414 of the SDWA to the Horse Creek Station Public Water System, Jackson, Wyoming. This Order requires that the public water system take measures to return to compliance with the SDWA and the National Primary Drinking Water Regulations. The system is in violation of 40 C.F.R. §§ 141.63(b), 141.63(a)(2), 141.21(b)(5), 141.21(a), 141.201, 141.21(g)(1), 141.21(g)(2), and 141.31(b) for exceeding the acute maximum contaminant level (MCL) for total coliform bacteria; exceeding the MCL for total coliform bacteria; failure to collect at least five routine total coliform samples after a total coliform positive sample in the preceding month; failure to conduct quarterly monitoring for total coliform; failure to conduct public notice; failure to report total coliform MCL violations to EPA; failure to report total coliform monitoring violations to EPA; and failure to report National Primary Drinking Water violations to EPA.

A copy of the Order is enclosed for your information. The Order does not require any response or action by the County Commission. If you have any questions regarding this Order, please contact Melanie Wasco at (303) 312-6540.

Sincerely,

SIGNED

Diane L. Sipe, Director
Technical Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice

Enclosure

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

IN THE MATTER OF)	
)	
Horse Creek Properties, Owner)	
Bruce Johnston, Operator)	
Horse Creek Station)	
Jackson, Wyoming)	
PWS ID# WY5600888)	
)	
Respondents)	
)	ADMINISTRATIVE ORDER
Proceedings under Section 1414(g))	
of the Safe Drinking Water Act,)	
42 U.S.C. § 300g-3(g)))	Docket No. SDWA-08-2006-0062
_____)	

The following Findings are made and Order issued under the authority vested in the Administrator of the U.S. Environmental Protection Agency ("EPA") by Section 1414(g) of the Safe Drinking Water Act ("the Act"), 42 U.S.C. § 300g-3(g), and its implementing regulations, as properly delegated to the Supervisors of the Technical and Legal Enforcement Programs of the Office of Enforcement, Compliance and Environmental Justice, EPA Region 8.

FINDINGS

1. Horse Creek Properties ("Respondent") is a corporation under the laws of the state of Wyoming as of April 1990 and therefore a "person" within the meaning of section 1401(12) of the Act, 42 U.S.C. § 300f(12) and of 40 C.F.R. § 141.2. Mr. Bruce Johnston ("Respondent") is an individual and therefore a "person" within the meaning of section 1401(12) of the Act, 42 U.S.C. § 300f(12) and of 40 C.F.R. § 141.2.
2. Respondents own and/or operate a system, the Horse Creek Station Public Water System (the "System"), located in Teton County, Wyoming for the provision to the public of piped water for human consumption.

3. The System has at least 15 service connections or regularly serves an average of at least 25 individuals daily at least 60 days out of the year and is therefore a "public water system" within the meaning of Section 1401(4) of the Act, 42 U.S.C. § 300f(4), and a "non-community water system" within the meaning of 40 C.F.R. § 141.2.
4. Respondents own and/or operate a public water system and is therefore a "supplier of water" within the meaning of Section 1401(5) of the Act, 42 U.S.C. § 300f(5) and 40 C.F.R. § 141.2. Respondents are therefore subject to the requirements of Part B of the Act, 42 U.S.C. § 300g, and its implementing regulations, 40 C.F.R. Part 141.
5. According to a June 24, 2004 sanitary survey by an agent for EPA, Respondents operate a system that is supplied solely by a ground water source. The System serves a transient population of approximately 60 persons per day through 4 service connections, and is open year-round.

FINDINGS OF VIOLATION

I.

1. 40 C.F.R. § 141.21 requires public water systems to monitor the water at least once per quarter for non-community groundwater public water systems with an average daily population of less than 1,001 to determine compliance with the maximum contaminant level (MCL) for total coliform bacteria as stated in 40 C.F.R. § 141.63.
2. 40 C.F.R. § 141.63(b) imposes and defines the acute MCL for total coliform bacteria as a fecal coliform positive or E. coli positive repeat sample, or any total coliform positive repeat sample following a fecal coliform positive or E. coli positive routine sample.

3. Monitoring results submitted by the Respondents for the public water system during March 2004 exceeded the acute MCL for total coliform bacteria, in violation of 40 C.F.R. § 141.63(b).

II.

1. 40 C.F.R. § 141.21 requires public water systems to monitor the water at least once per quarter for non-community groundwater public water systems with an average daily population of less than 1,001 to determine compliance with the MCL for total coliform bacteria as stated in 40 C.F.R. § 141.63.
2. 40 C.F.R. § 141.63(a)(2) imposes and defines the MCL for total coliform bacteria, applicable to public water systems collecting fewer than 40 samples per month, as no more than one sample collected during the month may be positive for total coliform bacteria.
3. Monitoring results submitted by the Respondents for the public water system during March and April 2006 exceeded the MCL for total coliform bacteria, in violation of 40 C.F.R. § 141.63(a)(2).

III

1. 40 C.F.R. § 141.21(b)(5) requires public water systems that collect fewer than 5 routine samples per month and have one or more total coliform positive samples to collect at least 5 routine samples during the next month the system provides water to the public.
2. Respondents failed to collect at least 5 routine samples in April 2004 after a total coliform positive sample in the preceding month, in violation of 40 C.F.R. § 141.21(b)(5).

IV.

1. 40 C.F.R. § 141.21 requires the owner and/or operators of non-community public water systems to monitor the water at least once per quarter to determine

compliance with the MCL for total coliform bacteria as stated in 40 C.F.R. § 141.63.

2. Respondents failed to monitor the System's water for contamination by total coliform bacteria during the third quarter (July through September) of 2002 and first quarter (January through March) of 2003, in violation of 40 C.F.R. § 141.21(a).

V.

1. 40 C.F.R. § 141.201 requires owners and/or operators of public water systems to notify the public of any violations of the national primary drinking water regulations (NPDWR), including violations of the MCL, maximum residual disinfection level (MRDL), treatment technique (TT), monitoring requirements, and testing procedures in 40 C.F.R. Part 141.
2. Respondents have not provided a Tier 2 public notice for the March and April 2006 MCLs for total coliform bacteria detailed in the preceding Section II, and a Tier 3 public notice of the noncompliance detailed in Sections III and IV, in violation of 40 C.F.R. § 141.201.

VI

1. 40 C.F.R. §§ 141.21(e) and 141.21(g)(1) requires public water systems that have exceeded the acute total coliform MCL or the total coliform MCL respectively in 40 C.F.R. § 141.63 to report the violation to EPA no later than the end of the next business day after it learns of the violation.
2. Respondents failed to report to EPA instances of noncompliance detailed in Sections I and II, in violation of 40 C.F.R. § 141.21(g)(1).

VII.

1. 40 C.F.R. § 141.21(g)(2) requires public water systems to report any failure to

comply with a coliform bacteria monitoring requirement to EPA within 10 business days after the system discovers the violation.

2. Respondents failed to report to EPA instances of noncompliance detailed in Sections III and IV, in violation of 40 C.F.R. § 141.21(g)(2).

VIII.

1. 40 C.F.R. § 141.31(b) requires public water systems to report any failure to comply with any National Primary Drinking Water Regulation (40 C.F.R. part 141) to EPA within 48 hours.
2. Respondents failed to report to EPA instances of noncompliance detailed in Section V, in violation of 40 C.F.R. § 141.31(b).

ORDER

Based on the foregoing Findings, and pursuant to Section 1414(g) of the Act, IT IS ORDERED:

1. As of the effective date of this Order, Respondents shall comply with the total coliform monitoring requirements as stated in 40 C.F.R. § 141.21 to determine compliance with the total coliform MCL appearing at 40 C.F.R. § 141.63. Respondents shall comply with the MCLs as stated in 40 C.F.R. § 141.63. Respondents shall report analytical results to EPA within the first 10 days following the month in which sample results are received, as required by 40 C.F.R. § 141.31(a).
2. If the System has a total coliform MCL violation while this Order is in effect, Respondents shall submit to EPA detailed plans for bringing Respondents' public water system into compliance with the MCL for coliform bacteria at 40 C.F.R. § 141.63. The plans shall include proposed system modifications, estimated costs for modifications, and a schedule for construction of the project and compliance with the MCL for coliform bacteria. The proposed schedule shall include specific

milestone dates, a final compliance date that shall be no longer than 3 months from the date of the MCL, and shall be submitted to EPA for approval. The plans must be approved by EPA before construction can commence. An EPA approval does not substitute for any required state or local approval.

3. The schedule for construction and completion of modifications will be incorporated into this Order upon written approval by EPA.
4. If plans are required as stated in paragraph 2 above, Respondents shall submit to EPA monthly reports on the progress made toward bringing the Respondents' System into compliance with the coliform bacteria MCL at 40 C.F.R. § 141.63. The reports shall be due within 10 days of the end of each month.
5. Upon the effective date of this Order, Respondents shall comply with all sampling requirements specified in 40 C.F.R. § 141.21(b)(5). If Respondents' water system has one or more total coliform positive samples in a month, Respondents shall collect at least 5 routine samples during the next month the System provides water to the public. Respondents shall report analytical results to EPA within the first 10 days following the end of the monitoring period, as required by 40 C.F.R. § 141.31(a).
6. Within 30 days from the effective date of this Order, Respondents must provide public notice of the violation(s) specified in Sections II, III and IV of the Findings of Violation in this Order. This notice must be given by any one of the following methods: (1) posting the notice in conspicuous locations throughout the distribution system frequented by persons served by the System; (2) by mail or direct delivery to each customer and service connection; AND (3) any other method reasonably calculated to reach other persons served by the System, if they would not normally be reached by the notice described in (1) and (2), including publication in a local newspaper or newsletter distributed to customers; use of E-

mail to notify employees or students; or, delivery of multiple copies in central locations. Upon the effective date of this Order, Respondents shall comply with the public notification requirements at 40 C.F.R. § 141.201 et seq. following any future NPDWR violation. Respondents shall submit a copy of the public notice to EPA within 10 days of completion of the public notice, as required by 40 C.F.R. § 141.31(d).

7. Upon the effective date of this Order, Respondents shall comply with 40 C.F.R. §§ 141.21(e) and 141.21(g)(1) by reporting any acute total coliform MCL or total coliform MCL violation under 40 C.F.R. § 141.63 to EPA no later than the end of the next business day after Respondents learns of the violation.
8. Upon the effective date of this Order, Respondents shall comply with 40 C.F.R. § 141.21(g)(2) by reporting any failure to comply with coliform monitoring requirements under 40 C.F.R. § 141.21 to EPA within ten days after the System discovers the violation.
9. Except where a different reporting period is specified above, upon the effective date of this Order, Respondents shall comply with 40 C.F.R. § 141.31(b) by reporting any failure to comply with any National Primary Drinking Water Regulation (40 C.F.R. part 141) to EPA within 48 hours.

10. Reporting requirements specified in this Order shall be provided by certified mail to:

U. S. EPA Region 8 (8P-W-DW)
999 18th Street, Suite 300
Denver, Colorado 80202-2466

GENERAL PROVISIONS

1. This Order does not constitute a waiver, suspension, or modification of the requirements of 40 C.F.R. § 141.1 et seq., or the Safe Drinking Water Act, which remain in full force and effect. Issuance of this Order is not an election by EPA to forgo any civil or criminal action otherwise authorized under the Act.
2. Violation of any term of this Order may subject the Respondents to an administrative civil penalty of up to \$27,500, under Section 1414(g)(3)(B) of the Act, 42 U.S.C. § 300g-3(g)(3)(B), or a civil penalty of not more than \$32,500 per day of violation, assessed by an appropriate U.S. district court under Section 1414(g)(3)(C) of the Act, 42 U.S.C. § 300g-3(g)(3)(C).
3. Violation of any requirement of the SDWA or its implementing regulations may subject Respondents to a civil penalty of not more than \$32,500 per day of violation, assessed by an appropriate U.S. district court under Section 1414(b) of the Act, 42 U.S.C. § 300g-3(b).
4. The effective date of this Order shall be the date of issuance of this Order.

Issued this 11th _____ day of August _____, 2006.

David J. Janik for/

Michael T. Risner, Director
David J. Janik, Supervisory Attorney
Legal Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice

SIGNED

Diane L. Sipe, Director
Technical Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice

**IF YOU WOULD LIKE COPIES OF THE ATTACHMENTS, PLEASE CONTACT THE
REGIONAL HEARING CLERK.**

**THIS DOCUMENT WAS FILED IN THE REGIONAL HEARING CLERK'S OFFICE
ON AUGUST 11, 2006.**